

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**ROBERT A. HILL**

Claimant

VS.

**GOODYEAR TIRE & RUBBER COMPANY**

Respondent

Self-insured

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) Docket No. 1,006,393  
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**ORDER**

Respondent appeals the April 16, 2003, Order for Compensation entered by Administrative Law Judge (ALJ) Brad E. Avery.

**ISSUES**

This case involves a claim for low back injuries that are alleged to have resulted from a "Series of accidents up to and including July 28, 2001 and ongoing." <sup>1</sup> At the December 13, 2002 preliminary hearing, claimant testified that his low back symptoms began gradually in early 2001 and progressively became worse. On July 30, 2001, while performing his regular job duties as a tire maker, claimant realized that he could not take it any longer and that he needed to seek medical treatment, which he did. Eventually, claimant was taken off work by his treating physician with March 12, 2002, being his last working day for respondent.

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<sup>1</sup> K-WC E-1 Application for Hearing (filed Sept. 20, 2002).

Respondent denies claimant's back injury is work-related. It is respondent's contention that claimant's back problems are the result of a personal condition unrelated to his employment. Accordingly, respondent denies claimant suffered personal injury by accident arising out of and in the course of his employment. Respondent further denies timely notice of accident was given by claimant to respondent.

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

Based on the record compiled to date, the Board finds claimant has failed to prove his current condition is related to his employment with respondent. The opinions of the most credible medical experts, namely claimant's treating orthopedist, Michael L. Smith, M.D., his treating rheumatologist Edward N. Letourneau, M.D., and the court ordered independent medical examiner, orthopedic surgeon Sergio Delgado, M.D., support the conclusion that claimant's current low back condition is the result of a disease process that is personal to the claimant and not the result of work-related trauma. Dr. Delgado concluded:

Based on the bone scan and CT scan as well as clinical findings with bilateral sacroiliac changes, I believe that his back complaints of pain and stiffness are related to an early ankylosing spondylitis which is not work related. I do not believe that the work activities aggravated his disease process but may have increased his symptomatology because of the activities required to perform work as a tire builder. I believe that his disease process with [sic] progress, although it may take several years to become fully developed with eventually obliteration of the sacroiliac joint and maybe some involvement with calcification of the spinal ligaments and bony overgrowth.

Again, to advise you of my opinion, I believe that Mr. Hill's back symptoms were not caused but symptoms were aggravated by the injury sustained but the disease process of the sacroiliac joints was not accelerated by the alleged job accident of July 24, 2001, or subsequent work activities.<sup>2</sup>

The greater weight of the medical evidence establishes that claimant's present need for preliminary hearing benefits of medical treatment and temporary total disability compensation is not the result of his work. Although claimant's work activities may have

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<sup>2</sup> Sergio Delgado, M.D., Report dated March 28, 2003.

temporarily aggravated his symptoms, he has not worked for respondent since March 12, 2002. His condition is now the same as if he had never worked for respondent.<sup>3</sup>

**WHEREFORE**, the Order for Compensation dated April 16, 2003 by Administrative Law Judge Brad E. Avery is reversed.

**IT IS SO ORDERED.**

Dated this \_\_\_\_\_ day of July 2003.

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BOARD MEMBER

c: James B. Biggs Attorney for Claimant  
John A. Bausch, Attorney for Respondent and Insurance Carrier  
Brad E. Avery, Administrative Law Judge  
Paula S. Greathouse, Workers Compensation Director

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<sup>3</sup> See *Boeckmann v. Goodyear Tire & Rubber Co.*, 210 Kan. 733, 504 P.2d 625 (1972); *Monroe v. General Motors Corp.*, 13 Kan. App. 2d 460, 773 P.2d 683 (1989).